**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.M.JOSEPH**

**MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929**

**WP(C).No. 3719 of 2007(P)**
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**PETITIONERS:**
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**1. MATHEW, AGED 71, S/O.GEE VARGHESE,**
**EMBASSERY HOUSE, KURUPPAMPADY,**
**PERUMBAVOOR VILLAGE, KUNNATHUNADU TALUK,**
**ERNAKULAM.**

**2. K.K.MATHEW KUNJU, AGED 54,**
**S/O.KURIAKOSE, KILIYAYATHU HOUSE,**
**KURUPPAMPADY.**

**BY ADV. SRI.K.S.MADHUSOODANAN**
**SRI.T.V.JAYAKUMAR NAMBOODIRI**

**RESPONDENTS:**
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**1. STATE OF KERALA TO BE REP. BY**
**SECRETARY, LOCAL SELF GOVERNMENT,**
**GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.**

**2. RAYAMANGALAM PANCHAYATH, RAYAMANGALAM**
**VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM**
**REP. BY SECRETARY.**

**R1 BY SPL. GOVERNMENT PLEADER (SHRI C. M. SURESH BABU)**

**BY ADV. SRI.N.K.KARNIS**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**K. M. JOSEPH, J.**

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**W.P.C. NO. 3719 OF 2007 P**

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**Dated this the 13th August, 2007**

**JUDGMENT**

Petitioners have approached this Court praying for a direction to finalise the proceedings under Ext.P4 pertaining to the formation of new Kuruppampady Panchayat within a time frame. The case of the petitioners, in brief, is as follows:

On the very inception of District Council in 1991, the first petitioner had represented the District Council from Rayamangalam. He and the second petitioner had espoused the cause for the formation of the new Kuruppampady Panchayat, which has all infrastructures to contain a Panchayat. There is reference to various Institutions. Petitioners submitted Ext.P1 Memorandum. Ext.P2 is a reminder. Ext.P3 is a copy of the Report relied on by the petitioners. Ext.P4 is a Notification issued on 16.8.1994 for the formation of 103 new Panchayats

including Kuruppampady. Petitioners complain of lethargy on the part of the first respondent in completing the process of formation of the new Kuruppampady Panchayat. It is stated that it is illegal, arbitrary and against the ends of justice. Since new Panchayats have been formed under Ext.P4, the neglect towards formation of Kuruppampady Panchayat is not justified, it is stated. It is stated that the consent of any local authority is not a sine quo non under Section 4 (2) of the Kerala Panchayat Raj Act and for the formation, they are only to be consulted.

2. A Counter Affidavit has been filed on behalf of the first respondent, inter alia, stating as follows:

Ext.P4 was issued in August, 1994. The contention of the petitioners that there was no objection from any corner in bifurcating Rayamangalam Grama Panchayat and forming a new Grama Panchayat is totally baseless. Ext.R1(a) is the objection of the Rayamangalam Grama Panchayat Committee to the

bifurcation of the Rayamangalam Grama panchayat. Government did not proceed with Ext.P4 Notification and no further steps were taken. In the year 1999, there was a proposal for formation of new Panchayats and the Government issued Notification forming twenty new Grama Panchayats, including Okkal Grama Panchayat. The Panchayats having a fixed geographical area and a population of around 50000 were considered for bifurcation and formation of new Panchayats. Bifurcation of Rayamangalam Grama Panchayat or the formation of Kuruppampady Panchayat was not considered by the Government at that time, since they did not meet the criteria adopted by the Government. The Government as per Notification dated 23.7.2005 formed eight new Grama Panchayats. The Norms specified in the year 2005 for bifurcation of an existing Grama Panchayat and formation of a new Panchayat was that the existing Panchayat should have a population of more than 50000 and an area of 30 Sq. Km. Since

the Rayamangalam Grama Panchayat was not having the required population, it was not considered for bifurcation. The population was only 33903 as per the census in the year 2001. It is also stated that the term of the existing Committee will expire only in October, 2010 and any action at the Government level can be initiated only by the end of the term of the existing Committee. It is further stated that since certain Panchayats did not meet the requirements prescribed by the Government, bifurcation of those Panchayats including Rayamangalam Grama Panchayat could not be considered.

3. Section 4(2) of the Kerala Panchayat Raj Act reads as follows:

> ***"4. Power of the Government to constitute and specify the name and headquarters of Panchayat:-***
>
> *(2) The Government may, at the request of the Panchayat concerned, or after consultation with the Panchayat and after previous publication of the proposal by notification, -*

*(a) increase the area of any Village Panchayat by including within such Panchayat area any village or group of villages;*

*(b) diminish the area of any Village Panchayat by excluding from such Panchayat area any village or group of villages;*

*(c) alter the headquarters of a Panchayat at any level; or*

*(d) alter the name of a Panchayat at any level;*

*Provided that any alteration extending or reducing the area of a Village Panchayat under clause (a) or clause (b) shall not be brought into force before the expiry of the term of the existing committee of that Panchayat."*

4. Ext.P4 was only a preliminary Notification. Ext.P4 was in the year 1994. More than thirteen years have gone by. In the year 1999, twenty new Grama Panchayats were formed. In the year 2005, new criteria have been framed. Apparently, the case of kuruppampady could not be considered under the said

criteria. Having regard to all facts, I do not think that the petitioners have made out a case for interference. The Writ Petition fails and it is dismissed.

**K. M. JOSEPH, JUDGE**

**kbk.**